

RUTH D. CRUNK

JULY 1, 1952.—Committed to the Committee of the Whole House and ordered to be printed

Mr. JONAS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7827]

The Committee on the Judiciary, to whom was referred the bill (H. R. 7827) for the relief of Ruth D. Crunk, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to pay Ruth D. Crunk, widow of Tim D. Crunk, \$5,000 in full settlement of all her claims against the United States for the death of her husband on January 22, 1944, as the result of burns sustained in a fire at the Evans Hall housing project, Evansville, Ind., which was under the supervision and management of the National Housing Agency.

STATEMENT OF FACTS

This is another in a series of claims which resulted from the fire described in the purpose of the bill, several of which have become law. The United States Court of Claims, in the case of Maud M. Wright and Maxine Roberts ruled that the claimants should be compensated and would have been had the United States been suable in an action for negligence at the time the events occurred. The decision of the court is attached hereto and made a part of this report. Private Laws 211 and 530 of the Eighty-second Congress, for the relief of Maud M. Wright and Maxine Mills, and Hattie Truax Graham, who lost their husbands in the same fire, are cited as precedents for the enactment of the proposed legislation.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, June 2, 1952.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 7827) for the relief of Ruth D. Crunk.

The bill would provide for payment of the sum of \$5,000 to Ruth D. Crunk in full settlement of all claims against the United States for the death of her husband on January 22, 1944, as the result of burns sustained in a fire at the Evans Hall housing project, Evansville, Ind., which was under the supervision and management of the National Housing Agency. The bill recites that the Court of Claims has found that the United States was negligent in failing to enforce its safety regulations, and that such failure was the proximate cause of the deaths.

The facts in this case are identical with those involved in the bill S. 1512, Eighty-second Congress, for the relief of Mrs. Maude M. Wright and Mrs. Maxine Roberts, and the bill S. 1949, Eighty-second Congress, for the relief of Hattie Truax Graham. All of the deaths involved occurred as the result of a fire in a Federally owned and operated housing project. The bills for the relief of Wright, Roberts and Graham were referred to the Court of Claims in accordance with 28 U. S. C. 1492, 2509. The Court found in each instance that the Government had been negligent in failing to enforce its safety regulations and that such failure was the proximate cause of the deaths.

While the case of the instant claimant has not been before the Court of Claims, nevertheless, that Court's findings in the prior cases must be considered as applicable to this case, since all of the deaths occurred as the result of the same fire.

Under the circumstances, the Department of Justice must accept the findings of the court in the matter and accordingly, does not wish to interpose any objection to the enactment of the bill.

The Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

AFFIDAVIT OF RUTH D. CRUNK

STATE OF ARIZONA,
County of Maricopa, ss:

I, the undersigned, Ruth D. Crunk, widow of Tim D. Crunk, deceased, who lost his life in a fire in the Evans Hall housing project at Evansville, Ind., on January 22, 1944, being duly sworn on my oath depose and say that as the result of the death of my husband, I have sustained loss and damages in the amount of \$5,000; that at the time of his death he was earning \$300 per month as his income and at the time of his death we were living together and he was supporting me; that at the time of his death he was 44 years of age and I make this affidavit in connection with a claim against the United States Government for the loss sustained by the death of my husband.

Dated at Phoenix, Ariz., this 12th day of June A. D. 1951.

RUTH D. CRUNK.

Subscribed and sworn to before me, the undersigned authority, by the above-named Ruth D. Crunk this 12th day of June A. D. 1951.

[SEAL]

WILLIAM D. ASHER,
Notary Public.

My commission expires May 25, 1953.

Court of Claims of the United States. No. Congressional 17857. *Hattie Truax Graham, Formerly Hattie Truax, v. The United States*

ORDER

This case comes before the Court on motion of the parties filed March 16, 1951, signed on behalf of the plaintiff by Lawrence J. Simmons, and on behalf of the

defendant by Acting Assistant Attorney General Newell A. Clapp, reading as follows:

"Comes now the plaintiff, by its attorney, and defendant, by its Acting Assistant Attorney General, and respectfully move the Court to render a decision in this case in accordance with its opinion in the case of *Maud M. Wright and Maxine Roberts, formerly Maxine Mills v. United States*, Congressional 17850, decided March 6, 1951, and transmit this case to the Senate, in accordance with the Act of March 3, 1911, 36 Stat. 1087, as amended by the Act of June 25, 1948, 28 U. S. C. 1492, 2509."

It further appearing that on March 14, 1951, a stipulation was filed by the parties requesting that the facts therein agreed to be found by the Court; now therefore, the Court adopts the stipulation with the affidavits appended thereto as its special findings of fact, and makes a conclusion of law, as follows:

SPECIAL FINDINGS OF FACT

1. On January 21, 1944, a fire occurred in dormitory No. 9 of the Evans Hall housing project, located in Evansville, Indiana. Ola Truax, a war worker and tenant in the dormitory, died on January 21, 1944, of burns sustained in the fire. Plaintiff, Hattie Truax Graham, formerly Hattie Truax, was the wife of Ola Truax at the time of his death and is the person named in Senate Resolution 268, 81st Congress, 1st Session, agreed to April 25, 1949, which reads:

"Resolved, That the bill (S. 411) entitled 'For the relief of Mrs. Hattie Truax' now pending in the Senate, together with all accompanying papers, is hereby referred to the Court of Claims; and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to claimant."

S. 411, 81st Congress, 1st Session, reads in part:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Hattie Truax, Cloverdale, Indiana, the sum of \$5,000. The payment of such sum shall be in full settlement of all claims against the United States of the said Mrs. Hattie Truax for the death of her husband, Ola Truax, on January 21, 1944, who died as the result of burns sustained in a fire at the Evans Hall housing project, Evansville, Indiana, which was under the supervision and management of the National Housing Agency; * * *"

2. After the reference of bill S. 411 to this court through Senate Resolution 268, the plaintiff filed a petition in this court in which, as a basis for recovery, negligence on the part of the defendant was alleged as follows:

That the said Ola Truax lost his life as the direct and proximate result of the negligence of the defendant in knowingly permitting the use of an electric hot plate by one Leonard Vaughn, a tenant in a dormitory of the aforesaid housing project which burned, the use of such electric hot plate being prohibited by the rules and regulations of said housing project, which rules and regulations said defendant negligently failed to enforce, although the use of said hot plate was known to defendant through its employees and manager; that said defendant was also negligent in knowingly permitting the installation and operation of improper heavier electric fuses which would not blow out as quickly as proper lighter fuses when the electric wiring system in said dormitory was overloaded; that said defendant was further negligent in failing to provide a proper and adequate number of fire extinguishers properly placed in the dormitory which burned; that as the direct and proximate result of the negligence of said defendant the said Ola Truax lost his life.

3. The Evans Hall housing project was constructed by the War Department at or about the beginning of World War II for use by civilian war workers. In February 1942 this project along with various others was transferred to the National Housing Agency which was operating in on January 21, 1944, when the fire in question occurred. The project included various dormitories, of which dormitory No. 9 in which the fire occurred was one. Dormitory No. 9 was a standard type dormitory which was built during that period. It was approximately 100 feet in length and was two stories in height with a corridor extending its entire length through the center of each floor. On each side of the central corridor the space was partitioned off into separate rooms without cooking facilities.

Dormitory No. 9 had an entrance door on the first floor at each end of the building and an entrance door in the middle on the first floor opposite a stairway leading to the second floor. It had an entrance door at each end of the building on the second floor leading to exterior stairways which went from each of these entrances to the ground level. It was a frame building with drop-siding exterior (wood exterior with strips of wood overlapping one another), two by four studs, two by six joists, and ceiling rafters. The interior walls were lined throughout with pressed cane fiberboard, $\frac{3}{4}$ inch thick with the exception of the boiler room which was lined with a cement asbestos material known as Transite.

4. Tenants, upon admission to the Evans Hall housing project, were required to sign a form known as "Revocable Use Permit to War Workers," which contained the following provisions:

"The United States of America, hereinafter called the 'Government', does hereby grant to ----- hereinafter called the 'Occupant', a
(Name of Occupant)

person engaged in national-defense activities, as defined in Public No. 849, 76th Congress, approved October 14, 1940 (as amended), the revocable privilege to occupy the following described premises, located in the County of Vanderburgh, State of Indiana, subject to the covenants and conditions hereinafter contained, and to the terms and conditions on the back hereof: (room number of occupant).

"It is understood and agreed that the revocable privilege hereby granted includes only the authority to use said premises for residential purposes of the Occupant, in accordance with such rules and regulations as may be promulgated by the Government, and that it does not authorize the Occupant to alter or change in any manner the said premises, or remove any fixtures or equipment.

* * * * *

"TERMS AND CONDITIONS

"2. Responsibility.—Tenants shall be responsible for the proper care and use of items in their possession and of community facilities used by them. The tenant shall immediately report any loss or damage of fixtures and furnishings. No tenant shall attempt to make repairs of any kind. All replacements and repairs shall be made by the Management, and those resulting from carelessness or negligence shall be made at the tenants' expense.

* * * * *

"8. Liability.—The Management will not be responsible for lost or stolen personal property or for personal injury sustained on the project.

"9. Fire Hazards.—Tenants shall permit nothing to be done on the project premises or bring or take anything thereon which will in any way increase the fire risk or in any way conflict with the rules and ordinances of the local fire department.

* * * * *

"17. Use of Electricity.—Tenants shall not waste electricity. Electricity may be used by dormitory tenants for the operation of radios. Electricity may be used by trailer occupants for the operation of radios, percolators, toasters, and clocks, but written permission to use electricity for all other appliances (such as and hand vacuum cleaners) not provided by the project must be obtained from the Manager. No appliance rated at more than 500 Watts shall be used.

"18. Other.—The Management reserves the right to make such other rules and regulations from time to time as it may deem needful and appropriate for the safety, care, and cleanliness of the premises and for securing the comfort and convenience of all tenants."

Use permits of the character referred to above were signed by Ola Truax whose death occurred as a result of the fire in question, and by Leonard Vaughan, referred to in finding 8.

5. House rules were prepared by the management of the housing project and copies of these rules were posted on the bulletin board located in dormitory No. 9 as well as in a clearly visible place on the walls in each of the rooms in the dormitory. These rules were in substance a recapitulation of the terms and conditions of the revocable use permit described in finding 4, and included the following:

"9. Liability.—The Management will not be responsible for lost or stolen personal property or for personal injury sustained on the project.

"10. Fire Hazards.—Tenants shall permit nothing to be done on the project premises or bring or take anything thereon which will in any way increase

the fire risk or in any way conflict with the rules and ordinances of the local fire department.

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* * * * *

"13. Use of Electricity.—Tenants shall not waste electricity. Electricity may be used by dormitory tenants for the operation of radios."

Leonard Vaughn did not read or pay any attention to the use permit referred to in finding 4, or to the house rules referred to above.

The defendant, through the National Housing Agency and its servants, was in full control of the project including the individual rooms of the dormitories.

6. At the time of the fire in question on January 21, 1944, the housing project was operated under the supervision of a manager who had held that position since August 1943. Shortly after he became manager he prepared the house rules referred to in the preceding finding and caused them to be posted on the bulletin boards and in the various rooms of the buildings, including dormitory No. 9. In connection with his work as manager, he held regular staff meetings with the personnel which came under his supervision, including the maids of the several dormitories. At one of these meetings which was held about a week or ten days prior to the fire in question, the manager discussed, among other things, the fire hazards in these buildings, the location of the fire extinguishers, the system of reporting fires and what precautions were to be taken in case of fire.

7. The rooms occupied by the tenants in dormitory No. 9 were swept and dusted daily and mopped on occasions as needed by the dormitory maid. While cleaning the dormitory rooms, the maids were instructed not to disturb the personal possessions of the tenants any more than was absolutely necessary and not to go into their personal baggage or dresser drawers. They were, however, instructed to report any violations of the house rules, including the use of hot plates by tenants.

8. Ola Truax, the individual who lost his life in the fire in question, and Leonard Vaughn were tenants of the Evans Hall housing project occupying rooms in dormitory No. 9. Vaughn occupied a room in the southwest corner of the first floor and Truax occupied a room in the dormitory but the location of his room is not now known.

9. One one occasion prior to January 21, 1944, the senior maid at the Evans Hall housing project reported to the manager that she thought she knew where there was at least one dormitory in which a tenant might be making coffee. The manager instructed her that it was part of her responsibility to follow up such matters, that the regulations of the project were posted, and if she had specific and positive information of violations it was her responsibility to follow up with notice to the tenant of the violation. No other information or suggestion that the rules were being violated by the use of hot plates was received by the manager prior to the fire on January 21, 1944.

However, approximately three weeks before the fire, the senior maid found an electric hot plate on the dressing table in the room occupied by Leonard Vaughan in dormitory No. 9. She told Vaughan that it was against the regulations to have a hot plate in his room and instructed the maid who regularly cleaned the rooms on that floor in the dormitory to be on the lookout for a hot plate. Whatever report, if any, the senior maid made of this incident did not come to the attention of the manager. The maid who cleaned Vaughan's room daily did not see a hot plate in his room until the morning of January 21, 1944, when she was cleaning his room a short time before the fire occurred. However, she did not have an opportunity before the fire occurred to report this.

After the senior maid had warned Vaughan as to the use of the hot plate as set out above, she, on another occasion, suspected him of using it but, upon being questioned in regard to its use, Vaughan denied that he had been using a hot plate.

A reasonable conclusion from the evidence is that Vaughan—at least from the occasion when the hot plate was first discovered in his room by the senior maid until the fire—had had the hot plate in the room but had usually kept it concealed from view.

10. About noon on January 21, 1944, Vaughan plugged a hot plate into the electrical outlet in his room in dormitory No. 9 for the purpose of warming some coffee. In addition he placed a quart glass jar containing cold packed meat and grease near the burner. The jar had a cap thereon. At or shortly thereafter, he left the room, closed the door, and went to the bathroom which was located near the center of the building. Shortly after he left his room the jar of meat exploded, the grease therein ignited and started a fire in the room. A few minutes later Vaughan came out into the hall from the bathroom and saw the fire coming out under the door to his room. He rushed to the room, disconnected the hot

plate and put it under the bed, and attempted to get water to put on the fire. Vaughan was in the building fighting the fire for a period of from fifteen to twenty minutes before he was forced to leave because of the heat and smoke. Vaughan was assisted in his efforts to combat the fire in Vaughan's room by the janitor, Ben Wood. Wood attempted to use a wastebasket to put out the fire instead of the fire extinguisher which was very close by and in operating condition. Wood then became confused, gathered his own clothing from his room in dormitory No. 9 and fled from the premises. Wood was so frightened that he failed to return to the project until the following afternoon. There is a conflict in the testimony as to whether Wood was just entering the building, or whether he was inside the building at the time he first received notice of the fire, but it is a reasonable conclusion that he knew of the existence of the fire about the same time that Vaughan discovered it. When Vaughan was unsuccessful in stopping the fire, he left the room and went out of the building. At or about the same time, the local fire department was called. When the fire department arrived, the fire had made considerable headway, due in part to the fact that a wind was blowing from the direction of Vaughan's room to the opposite end of the building, and in part to the fact that there was an unexplained delay in calling the local fire department. The fire was extinguished before all of the building was consumed. The body of Ola Truax was removed from the dormitory.

11. Four fire extinguishers, each of the water type, with a capacity of about two and one-half gallons, were located in dormitory No. 9—one at each of the exits on each floor at the ends of the building. These fire extinguishers had been placed in wall brackets, waist high, and were checked daily by project watchmen for water content. One of the fire extinguishers was located in the hall within four or five feet of the room occupied by Vaughan and it was found in its wall bracket and in operating condition after the fire had been extinguished. Neither Vaughan nor Wood, the janitor, undertook to make any use of this fire extinguisher.

12. The adequacy or inadequacy of the fire extinguisher or the character of the electric fuses used, had no casual connection with the death of Truax.

13. At the time of his death, Ola Truax was making an annual wage of \$3,182. Before and at the time of his death he was supporting his family.

14. Ola Truax lost his life in the fire described above through no fault or negligence of his own.

Plaintiff and defendant, by their respective attorneys, hereby stipulate and agree that the affidavits of the plaintiff, dated June 9, 1949, and October 19, 1949, shall constitute a part of the record in this case.

